



Legal Guide LT-8

OUTLINE: LANDLORDS' AND TENANTS' RESPONSIBILITIES FOR HABITABILITY AND REPAIRS

September 2009

General Rule: When a landlord (property owner) rents an apartment or a house to a tenant (renter), the rented property must be fit to live in. In other words, the rented property must be "habitable." During the time that the property is being rented, the landlord must do maintenance work and make repairs which are necessary to keep it habitable. However, a landlord is not responsible for repairing damage caused by the tenant, or the tenant's guests, children or pets.

Landlord's Responsibilities

California Civil Code section 1941 states that when a landlord rents property to a tenant as a place to live, the property must be in a "habitable" condition. ("Habitable" means fit to live in; "uninhabitable" means **not** fit to live in.) Section 1941 also states that the landlord must repair problems that make the property uninhabitable – except for problems caused by the tenant or the tenant's guests, children or pets. In order for the property to be habitable, it must have all of the following:

- a) Effective waterproofing and weather protection of roof and exterior walls, including unbroken windows and doors.
- b) Plumbing facilities in good working order, including hot and cold running water, connected to a sewage disposal system.
- c) Gas facilities in good working order.
- d) Heating facilities in good working order.
- e) An electrical system, including lighting, wiring and equipment, in good working order.
- f) Clean and sanitary buildings, grounds and appurtenances (for example, a garden or a detached garage) which are free from debris, filth, rubbish, garbage, rodents and vermin.
- g) Adequate trash receptacles in good repair.
- h) Floors, stairways and railings in good repair.

In addition, the rented property must have all of the following:

- i) A working toilet, wash basin, and bathtub or shower. The toilet and bathtub/shower must be in a

room that is ventilated, and that allows for privacy.

- j) A kitchen with a sink, which cannot be made of an absorbent material (for example, wood).
- k) Natural lighting in every room through windows or skylights. Unless there is a ventilation fan, the windows must be able to open at least halfway.
- l) Safe fire or emergency exits leading to a street or hallway. Stairs, hallways and exits must be kept litter free. Storage areas, garages, and basements must be kept free of combustible materials.
- m) Operable deadbolt locks on the main entry doors of rental units, and operable locking or security devices on windows.
- n) Working smoke detectors in all units of multi-unit buildings, such as duplexes and apartment complexes. Apartment complexes also must have smoke detectors in common stairwells.

These are minimum requirements. Other conditions may make the rented property not habitable. For example, the rented property may not be habitable if it does not substantially comply with building and housing code standards that materially affect tenants' health and safety.

Tenant's Responsibilities

A tenant must take reasonable care of the rented property and common areas, such as hallways. This means that the tenant must keep those areas in good condition. A tenant also must repair all damage that he or she causes, or that is caused by the tenants' guests, children or pets. California Civil Code section 1941.2 requires the tenant to do all of the following:

- a) Keep the premises "as clean and sanitary as the condition of the premises permits."
- b) Use and operate gas, electrical and plumbing fixtures properly. (Examples of improper use include overloading electrical outlets, flushing large, foreign objects down the toilet, and allowing any gas, electrical or plumbing fixture to become filthy.)
- c) Dispose of trash and garbage in a clean and sanitary manner.
- d) Not destroy, damage, or deface the premises, or allow anyone else to do so.
- e) Not remove any part of the structure, dwelling unit, facilities, equipment or appurtenances, or allow anyone else to do so.
- f) Use the premises as a place to live, and use the rooms for their proper purposes. For example, the bedroom must be used as a bedroom and not as a kitchen.
- g) Notify the landlord when deadbolt locks and window locks or security devices do not operate properly.

If the tenant does not perform these duties and causes the property to become uninhabitable, the tenant cannot require the landlord to repair the property to make it habitable.

Similarly, the tenant cannot require the landlord to repair the property if the tenant substantially interferes with the landlord's ability to repair defects (for example, by not allowing the landlord's electrician

to enter the apartment to fix faulty wiring).

In addition, the landlord is not obligated to repair damage caused by the tenant's own carelessness (for example, a toilet that will not flush because the tenant's child flushed a sock down it).

This Legal Guide is only a summary of landlords' and tenants' rights and responsibilities in this area. For more complete information, including, a discussion of tenants' remedies, please consult Legal Guide LT-3, "Rental Housing & Repairs: Who's Responsible for What & How to Get Repairs Made," and *California Tenants – A Guide to Residential Tenants' and Landlords' Rights and Responsibilities*.

NOTICE: We strive to make our Legal Guides accurate as of the date of publication, but they are only guidelines and not definitive statements of the law. Questions about the law's application to particular cases should be directed to a specialist.

Prepared by Legal Services Unit, June 1996. Updated April 2002 and September 2009.

This document, other Legal Guides and *California Tenants* are available at www.dca.ca.gov. This document may be copied, if all of the following conditions are met: the meaning of the copied text is not changed; credit is given to the Department of Consumer Affairs; and all copies are distributed free of charge.